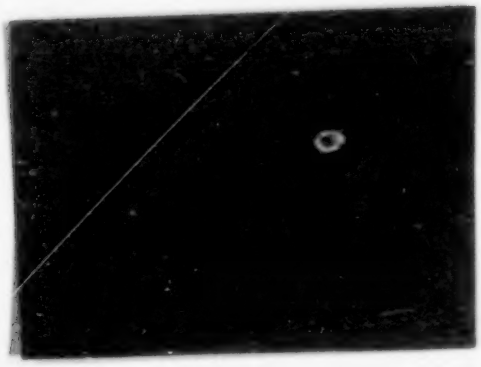
HUMAN RIGHTS

1945-1970



United Nations

Human Rights, 1945-1970

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When the Conference of San Francisco met in the spring of 1945 to draw up the Charter of the United Nations, there was a strong public demand for broad guarantees of human rights but in fact little effort had been made to reach a common understanding as to the scope of those rights or the means by which their enjoyment might be ensured. Observers from a number of non-governmental organizations convinced governmental representatives of the need to elaborate on the original human rights provisions of the Dumbarton Oaks proposals, urging in particular that the proposed Economic and Social Council should be authorized to consider matters relating to human rights, that a Commission on Human Rights be established, and that at least some minimum agreement on the scope of the rights and freedoms to be protected should be incorporated in the Charter pending the preparation of a full and adequate International Bill of Rights.

As adopted, the Charter expresses the determination of the people of the United Nations "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small". It sets out, as one of the purposes of the Organization, "to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion". The Charter relates this purpose to the functions and powers of the General Assembly and of the Economic and Social Council, and lists it among the basic objectives of the International Trusteeship System. The Economic and Social Council, empowered to make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms, is authorized to "set up commissions in economic and social fields and for the promotion of human rights".

The Commission on Human Rights, composed originally of experts representing eighteen countries under the Chairmanship of Mrs. Franklin D. Roosevelt, began its work in January 1947, and immediately plunged into the task of preparing an International Bill of Human Rights. Some members of the Commission felt that the Bill should take the form of a proclamation or manifesto; others favoured an international convention. As a compromise it was decided that the Bill should have three parts: a Declaration proclaiming general principles, a "Covenant or Covenants" embodying those principles in a form which would become binding on States which ratified them, and "measures of implementation" establishing the international machinery necessary to ensure the application of the Covenants.

So effectively did the Commission perform the first part of its task that the General Assembly was able, less than two years later, on 10 December 1948, to adopt and proclaim the Universal Declaration of Human Rights. In this unique document—hailed as one of the most significant accomplishments of the United Nations—the meaning of "human rights and fundamental freedoms" is spelled out in terms which all may accept and understand. More important, the Declaration vests a responsibility for the promotion and protection of those rights and freedoms in the international community as a whole, and deals with the individual not only as a citizen of a given State but as a human being, and also as a citizen of the world.

Since 1948, the Declaration has become "a standard of achievement for all nations and all peoples". Its text, translated into every principal language, has penetrated into all corners of the world. The date of its adoption, 10 December, has been proclaimed as "Human Rights Day" and is celebrated every year around the earth. The national constitutions of many countries, drafted since 1948, have taken their human rights provisions from it. Numerous international conventions and agreements also clearly show its influence and effect. The twentieth anniversary of its adoption was observed throughout the world in 1968, which had been designated by the General Assembly as the International Year for Human Rights.

The preparation of the Covenants on Human Rights was a far more difficult task, as it was necessary not only to define each right and freedom in terms which were legally precise and universally acceptable, but also to agree upon some arrangements for dealing, on the international level, with complaints that certain rights or freedoms were not fully recognized or enjoyed in this or that country or Territory. The Commission started on this job in 1947, but it was only in 1954 that it was able to submit preliminary texts to the General Assembly, and only in 1966 that the Assembly could adopt the Covenants and open them for signature and ratification or accession.

The completion of the Covenants undoubtedly was hastened by the successful preparation and approval, in 1965, of the International Con-

vention on the Elimination of All Forms of Racial Discrimination, to which the General Assembly had accorded "absolute priority". The Convention provides *inter alia* for the establishment of the first United Nations body especially set up to deal with allegations that human rights are being violated in independent countries and Territories. This body, the Committee on the Elimination of Racial Discrimination, is composed of experts of acknowledged impartiality and is authorized not only to consider reports from States Parties on the legislative, judicial, administrative and other measures which they have adopted and that give effect to the provisions of the Convention, but also to deal with allegations which may be brought by one State Party to the effect that another State Party is not giving effect to the provisions of the Convention. Further, the Committee may, in certain circumstances, and upon special acceptance of one of the Convention's provisions by the State concerned, deal with communications received from individuals, or groups of individuals, within the jurisdiction of a State Party, claiming to be victims of a violation by that Party of any of the rights set forth in the Convention. The Convention came into force in 1969, and the Committee on the Elimination of Racial Discrimination began its work early in 1970.

Less than a year after the General Assembly had completed the Racial Discrimination Convention it was able to adopt, and open for signature and ratification, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the Covenant on Civil and Political Rights. The Covenants provide international protection for a far-ranging catalogue of human rights and freedoms, and will be legally binding on those countries which ratify them. They will come into force when 35 States have become Parties.

Both Covenants recognize the right of peoples to self-determination. Both have provisions barring all forms of discrimination in the exercise of human rights. The Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to work, to fair wages, to social security, to adequate standards of living and freedom from hunger, to health, and to education. States Parties acknowledge their responsibility to promote better living conditions for their people, and undertake to ensure the right of everyone to form and join trade unions. The Covenant on Civil and Political Rights recognizes the right of everyone to life, liberty, security and privacy of person; the right of everyone to freedom of thought, conscience and religion, freedom of opinion and expression, and freedom of peaceful assembly and association; and the right of everyone to be protected against cruel, inhuman or degrading treatment. It also guarantees preservation of the cultural, religious and linguistic heritage of minorities.

The International Covenant on Civil and Political Rights contains implementation measures along the lines of those which appear in the International Convention on the Elimination of All Forms of Racial

Discrimination. States Parties to the Covenant will elect an 18-member Human Rights Committee, which will consider reports submitted by the States Parties and may address general comments to those States, as well as to the Economic and Social Council. The Committee may also consider communications from a State Party alleging that another State Party is not fulfilling its obligations under the Covenant, but only in accordance with optional provisions which will come into force when 10 States Parties have accepted them. The Committee may also consider, under the Optional Protocol, which will also come into force only after acceptance by 10 States Parties, communications from private individuals claiming to be the victims of a violation by a State Party to that Protocol of any of the rights set forth in the Covenant. The reports of the Committee are to be communicated to the States concerned; the Committee will also report to the General Assembly each year.

The measures of implementation contained in the International Covenant on Economic, Social and Cultural Rights are somewhat less comprehensive. For while it was considered that civil and political rights may be ensured immediately by measures such as the enactment and enforcement of appropriate law, it was admitted that economic, social and cultural rights can only be achieved progressively, in relation to resources becoming available to each State. States Parties to the Covenant on Economic, Social and Cultural Rights accordingly undertake to submit periodic reports to the Economic and Social Council on the measures adopted and the progress achieved towards the realization of these rights. The Council, upon consideration of the reports, and in co-operation with other United Nations bodies and the specialized agencies, may promote appropriate international action to assist the States Parties in those fields.

The adoption of the Covenants and of the Optional Protocol marked the completion of one of the most complex and difficult tasks undertaken by organs of the United Nations in its 25 year history. Its main significance was that the general references to human rights which had been inserted in the Charter, and which had been proclaimed as principles in the Universal Declaration of Human Rights, had at last been made the subject-matter of legally binding obligations in international treaties. The adoption of both Covenants in the General Assembly by a unanimous vote of those participating is a significant element.

This was not, however, by any means, the only tangible achievement of the United Nations in the field of human rights in that period of two and one-half decades. The International Bill of Human Rights was supplemented by a whole series of international instruments designed to promote and protect the enjoyment of various rights and freedoms. Moreover, in addition to preparing numerous measures of this kind, the United Nations stimulated certain of the specialized agencies to do likewise in the field of their activities. The result is a comprehensive series of Conventions, Declarations and recommendations all stemming from the

United Nations Charter, and *in toto* constituting what may be characterized as a world-wide code of law of human rights and fundamental freedoms.

First, the right of peoples and nations to self-determination, clearly affirmed in the Charter, is reaffirmed with vigour in the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in resolution 1514 (XV) of 14 December 1960, which emphasizes the necessity of bringing colonialism in all its forms and manifestations to a speedy and unconditional end in order to ensure to all peoples their inalienable right to complete freedom, to the exercise of their sovereignty, and to the integrity of their national territory; and which sets out a series of measures designed to end the subjection of peoples to alien domination and exploitation.

Secondly, the International Convention on the Elimination of All Forms of Racial Discrimination, referred to above, is now buttressed by a whole series of international instruments designed to ensure recognition and enjoyment, in fact as well as in law, of the principle of equality and non-discrimination. As early as 1951 the General Conference of the International Labour Organisation adopted the first international Convention implementing this principle, Convention (No. 100) Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value. In 1958 the ILO General Conference prepared the Discrimination (Employment and Occupation) Convention (No. 111), by which States Parties undertake to declare and pursue a national policy designed to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof. Two years later the General Conference of UNESCO adopted the Convention Against Discrimination in Education, by which States Parties undertake to formulate, develop and apply a national policy which will tend to promote equality of opportunity and of treatment in the matter of education. The two latter Conventions were adopted following initiatives originating in organs of the United Nations.

Another important instrument in this field, and indeed the forerunner of the International Convention on the Elimination of All Forms of Racial Discrimination, is the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, which the General Assembly of the United Nations adopted unanimously on 20 November 1963. This Declaration, like the Convention which followed two years later, deals with one particular type of discrimination, that based on race, colour or ethnic origin. It characterizes such discrimination as an offence to human dignity, and condemns it as a denial of the principles of the Charter, as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights, as an obstacle to friendly and peaceful relations among nations, and as a fact capable of disturbing peace and security among peoples; and solemnly affirms the necessity of speedily eliminating such discrim-

ination throughout the world, in all its forms and manifestations, and of securing understanding of and respect for the dignity of the human person.

With reference to the first and most important of all human rights, the right to life, the General Assembly adopted, on 9 December 1948, the Convention on the Prevention and Punishment of the Crime of Genocide, which established a new crime in international law: the destruction of a human group—national, ethnical, racial or religious—as such, either by killing members of the group, by causing serious bodily or mental harm to them, by deliberately inflicting upon them conditions of life calculated to bring about the physical destruction of the group in whole or in part, by imposing methods intended to prevent births within the group, or by forcibly transferring children of the group to another group. In accordance with the provisions of the Convention, States Parties undertake to prevent and to punish this odious crime.

With reference to freedom from slavery or any other form of servitude, the United Nations in 1953 assumed the duties and functions which had been vested in the League of Nations under the Slavery Convention signed at Geneva on 25 September 1926. Three years later, in 1956, a Conference of Plenipotentiaries prepared and opened for signature and ratification the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and institutions and Practices Similar to Slavery, extending the prohibition of crude slavery and of the slave trade to a number of similar institutions and practices, including debt bondage, serfdom, the purchase or inheritance of women, and the exploitation of young persons or of their labour. Under the Convention, States Parties undertake to co-operate with each other and with the United Nations to bring an end to slavery, the slave trade, and all similar institutions and practices.

With regard to a more subtle form of servitude–prostitution and the accompanying evil of traffic in persons for the purpose of prostitution—the United Nations in 1949 consolidated a number of instruments designed to suppress the traffic in women and children, and approved the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

With reference to forced labour, also a form of servitude, in which the Government *de facto* is the master and its citizens the slaves, the General Conference of the International Labour Organisation adopted in 1957 the Abolition of Forced Labour Convention (No. 105), under which each ratifying State pledges to take effective measures to secure the immediate and complete abolition of forced and compulsory labour, and not to make use of any form of forced labour either (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system, (b) as a method of mobilizing and using labour for purposes of economic development, (c) as a means

of labour discipline, (d) as a punishment for having participated in strikes, or (e) as a means of racial, social, national or religious discrimination.

With regard to problems of nationality, statelessness and refugees, the United Nations has completed four international Conventions: the Convention on the Nationality of Married Women, opened for signature and ratification by the General Assembly on 29 January 1957; the Convention on the Reduction of Statelessness, adopted on 30 August 1961 by a Conference of Plenipotentiaries convened by the General Assembly; the Convention Relating to the Status of Stateless Persons, adopted on 28 September 1954 by a Conference of Plenipotentiaries convened by the Economic and Social Council; and the Convention relating to the Status of Refugees, adopted on 28 July 1951 by a Conference of Plenipotentiaries convened by the General Assembly. In addition, it has prepared and adopted the Statute establishing the Office of the United Nations High Commissioner for Refugees, adopted by the General Assembly on 14 December 1950. By virtue of this Statute the United Nations High Commissioner for Refugees provides international assistance, under the auspices of the United Nations, to specified categories of refugees, and endeavours to find permanent solutions for the problem of refugees.

With regard to the rights of women, several important instruments have been prepared. The Convention on the Political Rights of Women, opened for signature and ratification by the General Assembly in 1952, implements the principle of equality of rights for men and women contained in the Charter by ensuring that women residing in Contracting States are entitled to vote in all elections, are eligible for election to all publicly-elected bodies, and are entitled to hold public office and to exercise all public functions, on equal terms with men, without any discrimination. The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, opened for signature and ratification by the General Assembly on 7 November 1962, provides for measures with a view to abolishing certain customs, ancient laws and practices relating to marriage and the family which are considered to be inconsistent with the human rights principles set out in the Charter and the Universal Declaration of Human Rights. States Parties undertake to ensure complete freedom in the choice of a spouse, to eliminate completely child marriages and the betrothal of young girls before the age of puberty, to establish appropriate penalties where necessary to end these evils, and to establish a civil or other register in which all marriages will be recorded.

Other human rights Conventions completed by the United Nations or the specialized agencies during the 25 year period include the Convention on the International Right of Correction, opened for signature by the General Assembly on 16 December 1952; the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, adopted by the General Assembly on 26 November

1968; the Freedom of Association and Protection of the Right to Organize Convention, adopted by the International Labour Conference on 9 July 1948; the Right to Organize and Collective Bargaining Convention, adopted by the ILO General Conference on 1 July 1949; and the Convention concerning Employment Policy adopted by the ILO General Conference on 9 July 1964.

Among the major statements of principle promulgated during this period were the Declaration on the Rights of the Child, proclaimed by the United Nations General Assembly on 20 November 1959; the Declaration on the Promotion Among Youth of the Ideals of Peace, Mutual Respect and Understanding Between Peoples, proclaimed by the General Assembly on 7 December 1965; and the Declaration of the Principles of International Cultural Co-operation, proclaimed by the General Conference of UNESCO on 4 December 1966.

Thus it may be seen that the task of building a world-wide system of law and of insuring the protection of human rights and fundamental freedoms—a vast and complicated undertaking—has progressed rapidly and significantly. But this task is far from being finished, even at the 25 year mark. And—far more important—the monumental job of making a reality of the principles which have been proclaimed by giving full effect to the international agreements which have been concluded is only at its beginning. The United Nations requires for this lofty purpose the full co-operation and assistance not only of its Member States but also of its numerous affiliated bodies and every international and national organization concerned.

The responsibilities concerning the human rights activities of the United Nations have been borne principally by the General Assembly, the Economic and Social Council, the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities, and the Commission on the Status of Women. The endeavours of these organs have received approval from time to time by action taken in the Security Council on matters where human rights were at stake—the situations in South Africa, Southern Rhodesia, and the Portuguese Territories in Africa, for example—and by the continuing activities of the Trusteeship Council, the Special Committee of 24 and the Council for Namibia, which have proposed a number of substantive measures aimed at the promotion of human rights and the elimination of racial discrimination in Non-Self-Governing and Trust Territories.

By these endeavours, the United Nations in 25 years has succeeded in making peoples everywhere conscious of their human rights and fundamental freedoms. It has encouraged, nationally and internationally, the recognition and protection of those rights and freedoms. It has adopted precise standards in this field, against which domestic legislation and practices can be reviewed and measured. It has established a comprehensive network of international machinery, designed on the one hand to guarantee and ensure the enjoyment of human rights generally,

and on the other hand to implement international agreements for the solution of particular problems.

This progress, while encouraging, is still far from adequate to meet the need. Many practices denying human rights persist and are matters of grave concern to the international community. They are widespread, and the resources available to deal with them are still too limited to the magnitude of the task.

It is understandable, and indeed imperative, that the major efforts of the United Nations and of its affiliated bodies should, at this critical period, be directed mainly against racial discrimination, including *apartheid*, and against institutions and practices—such as slavery and other forms of servitude–which deprive men and women of their freedom and destroy their human dignity. This positive drive to achieve the maximum freedom and dignity for each individual is to be emphasized in 1971, which the General Assembly has designated as the International Year to Combat Racism and Racial Discrimination.

But it would not be correct to assume that full recognition and enjoyment of human rights and fundamental freedoms can be attained through international consideration and recommendation alone. Indeed, in our form of international society, it is on the national and local levels that progress in this area must take place. Only Governments, in fact, can put into effect the legislative and other measures, and adopt the necessary policies of economic and social development, required to implement the human rights principles of the Charter and the Universal Declaration of Human Rights.

Moreover, in the final analysis, as Mrs. Roosevelt once pointed out, all human rights begin "in small places, close to home—so close and so small that they cannot be seen on any map of the world. Yet they *are* the world of the individual person: the neighborhood he lives in, the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have no meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

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